

**IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Fynale Barnwell and Shavell Barnwell,) CIVIL ACTION NO.: 3:23-cv-00583-SAL
individually and as natural parents and)
guardian of M.B., a Minor Child,)
Plaintiff,)
vs.) **DEFENDANT SOUTH CAROLINA
DEPARTMENT OF EDUCATION'S
ANSWERS TO RULE 26.01
INTERROGATORIES**
Lexington School District One, Gerrita)
Postlewait, in her individual capacity,)
Nicole Livingston, in her individual)
capacity, Jacob Smith, in his individual)
capacity, and South Carolina Department of)
Education,)
Defendants.)

)

Pursuant to Rule 26.01 of the Local Civil Rules of the United States District Court for the District of South Carolina, Defendant South Carolina Department of Education submits the following answers to interrogatories as required by the Court:

(A) State the full name, address, and telephone number of all persons or legal entities who may have a subrogation interest in each claim and state the basis and extent of said interest.

RESPONSE: This Defendant is unaware of any entity that may have a subrogation interest at this time.

(B) As to each claim, state whether it should be tried jury or non-jury and why.

RESPONSE: In response to the Plaintiffs' Summons and Complaint, this Defendant has filed a Motion to Dismiss pursuant to Fed.R.Civ.P. Rule 12(b)(6), the Eleventh Amendment, and other grounds. In the event the Motion is not granted, this Defendant requests a jury trial.

(C) State whether the party submitting these responses is a publicly-owned company, and separately identify: (1) each publicly-owned company of which it is a parent, subsidiary, partner, or affiliate; (2) each publicly-owned company which owns ten percent or more of the

outstanding shares or other indicia of ownership of the party; and (3) each publicly-owned company in which the party owns ten percent or more of the outstanding shares.

RESPONSE: This Defendant is an agency of the State of South Carolina; it is not a publicly-owned company.

(D) State the basis asserting the claim in the division in which it was filed (or the basis of any challenge to the appropriateness of the division.)

RESPONSE: In response to the Plaintiffs' Summons and Complaint, this Defendant has filed a Motion to Dismiss pursuant to Fed.R.Civ.P. Rule 12(b)(6), the Eleventh Amendment, and other grounds. In the event the Motion is not granted, this Defendant does not contest the filing of this case in this division.

(E) Is this action related in whole or in part to any other matter filed in this District, whether civil or criminal? If so, provide: (1) a short caption and the full case number in the related action; (2) an explanation of how the matters are related; and (3) a statement of the status of the related action. Counsel should disclose any cases which *may* be related regardless of whether they are still pending. Whether cases *are* related such that they should be assigned to a single judge will be determined by the Clerk of Court based on a determination of whether the cases: arise from the same or identical transactions, happening or events; involve the identical parties or property; or for any other reason would entail substantial duplication of labor if heard by different judges.

RESPONSE: This Defendant is unaware of any other matter filed in this District to which this action is related.

(F) If the Defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct identification.

RESPONSE: This Defendant is properly identified as the South Carolina Department of Education, but has not participated in the incident subject of the Complaint through any acts or omissions of its agents or employees.

(G) If you contend that some other person or legal entity is, in whole or in part, liable to you or the party asserting a claim against you in this matter, identify such person or entity and describe the basis of said liability.

RESPONSE: This Defendant has no information relating to this matter, other than what it has reviewed in the Complaint and seen on television news when the Plaintiffs and Plaintiffs' Counsel have made statements to the media.

DAVIS FRAWLEY, LLC

s/Patrick J. Frawley

Patrick J. Frawley, Fed. ID No. 890
140 East Main Street (29072)
PO Box 489,
Lexington, South Carolina 29071-0489
(803) 359-2512
Pat@oldcourthouse.com
ATTORNEYS FOR SOUTH CAROLINA
DEPARTMENT OF EDUCATION

March 10, 2023
Lexington, South Carolina